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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/960,647	09/24/2001	Jean-Jacques Claisse	CLAISSE=2	6513

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BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, DC 20001

EXAMINER

NORDMEYER, PATRICIA L

ART UNIT	PAPER NUMBER
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1772

MAIL DATE	DELIVERY MODE
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07/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/960,647

Applicant(s)

CLAISSE ET AL.

Examiner

Patricia L. Nordmeyer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30,31,33,34,36,37,39,40,42-45,47,49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30,31,33,34,36,37,39,40,42-45,47,49 and 50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 4, 2007 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 30, 36, 39, 43, 44, 47 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by DeBaratolo, Jr. et al. (USPN 5,300,731).

DeBaratolo, Jr. et al. disclose an electrical wiring trunking (Figure 1) comprising a cover (Figure 1, #28) and a base portion (Figure 1, #22), said base portion being constituted by a thermoplastics material section (Column 4, lines 16 – 17) having a U-shaped cross section (Figure 1, #22) and comprising a substantially flat wall having two longitudinal edges and two flanges each extending transversely to said wall and each joined to a respective longitudinal edge of said wall (Column 5, line 64 to Column 6, line 2), wherein said wall contains a longitudinal

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succession of mechanically weakened areas (Figure 1, #94), each mechanically weakened area being a precursor for a hole having a closed periphery (Figure 1, #94; Column 6, line 22 – 42), and each hole precursor is a closed contour formed by a succession of through-openings located along the periphery of the hole or a blind hole whose bottom is constituted by a continuous web, wherein the contour is formed by a succession of blind openings, grooves, along the hole periphery (Figure 1, #94; Column 6, line 22 – 42) as in claims 30, 36, 39, 43, 44, 47 and 49.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31, 33, 34, 37, 40, 42, 45 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeBaratolo, Jr. et al. (USPN 5,300,731) in view of Gehrs et al. (USPN 5,444,183).

DeBaratolo, Jr. et al. disclose an electrical wiring trunking (Figure 1) comprising a cover (Figure 1, #28) and a base portion (Figure 1, #22), said base portion being constituted by a thermoplastics material section (Column 4, lines 16 – 17) having a U-shaped cross section (Figure 1, #22) and comprising a substantially flat wall having two longitudinal edges and two flanges each extending transversely to said wall and each joined to a respective longitudinal edge of said wall (Column 5, line 64 to Column 6, line 2), wherein said wall contains a longitudinal

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succession of mechanically weakened areas (Figure 1, #94), each mechanically weakened area being a precursor for a hole having a closed periphery (Figure 1, #94; Column 6, line 22 – 42), and each hole precursor is a closed contour formed by a succession of through-openings located along the periphery of the hole or a blind hole whose bottom is constituted by a continuous web, wherein the contour is formed by a succession of blind openings, grooves, along the hole periphery (Figure 1, #94; Column 6, line 22 – 42). However, DeBaratolo, Jr. et al. fail to disclose each hole precursor having an oblong shape, each hole precursor is a through-hole surrounded by a continuous annular web having a thickness that is less than that of said wall and wherein at least some of said hole precursors are adapted to receive a fixation screw.

Gehrs et al. teach each hole precursor is a through-hole surrounded by a continuous annular web having a thickness that is less than that of said wall (Column 2, lines 43 – 46) in a thermoplastic enclosure (Column 2, lines 34 – 36) for the purpose of being able to selectively remove desired sections from the enclosure (Column 2, lines 57 – 60).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided the hole precursor is a through-hole surrounded by a continuous annular web having a thickness that is less than that of said wall in DeBaratolo, Jr. et al. in order to be able to selectively removed desired sections from the enclosure as taught by Gehrs et al.

With regard to the limitation of “each hole precursor having an oblong shape”, it is well settled that a particular shape of a prior invention carries no patentable weight unless the applicant can demonstrate that the new shape provides significant unforeseen improvements to the invention. In the instant case, the application does not indicate any new, significant attributes of the invention due to its shape that would have been unforeseen or even an unforeseen result to one of ordinary skill in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to change the shape of the hole precursor. One skilled in the art would have been motivated to do so in order to vary the item that could be inserted through the precursor. MPEP 2144.04.

With regard to the limitation of “at least some of said hole precursors are adapted to receive a fixation screw”, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Response to Arguments


6. Applicant's arguments with respect to claims 30, 31, 33, 34, 36, 37, 39, 40, 42-45, 47, 49 and 50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia L. Nordmeyer whose telephone number is (571) 272-1496. The examiner can normally be reached on Mon.-Thurs. from 10:00-7:30 & alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L. Dye can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Patricia L. Nordmeyer
Examiner
Art Unit 1772

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